

H. AVAILABLE RESOURCES**WAC 388-513-1350 Defining the resource standard and determining available resources for long-term care (LTC) services.**

This section describes how the department defines the resource standard and available resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a client can have and be resource eligible for program benefits.

- (1) The resource standard used to determine eligibility for LTC services equals:
 - (a) Two thousand dollars for a single client; or
 - (b) Three thousand dollars for a legally married couple, unless subsection (2) applies.
- (2) If the department has already established eligibility for one spouse, then it applies the standard described in subsection (1) (a) to each spouse, unless doing so would make one of the spouses ineligible.
- (3) The department must apply the following rules when determining available resources for LTC services:
 - (a) WAC 388-470-0005 Resource eligibility and limits;
 - (b) WAC 388-470-0010 How to determine who owns a resource;
 - (c) WAC 388-470-0015 Availability of resources;
 - (d) WAC 388-470-0060 (6) Resources of an alien sponsor; and
 - (e) WAC 388-506-0620 SSI-related medical clients.
- (4) The department determines a client's non-excluded resources used to establish eligibility for LTC services in the following way:
 - (a) For an SSI-related client, the department reduces available resources by excluding resources described in WAC 388-513-1360;
 - (b) For an SSI-related client who has a community spouse, the department:
 - (i) Excludes resources described in WAC 388-513-1360; and

- (ii) Adds together the available resources of both spouses according to subsection (5) (a) or (b) as appropriate;
 - (c) For a client not described in subsection (4) (a) or (b), the department applies the resource rules of the program used to relate the client to medical eligibility.
- (5) A change in federal law that took effect on October 1, 1989 affects the way the department determines available resources of a legally married client. If the client's current period of institutional status began:
 - (a) On or after that date, the department adds together the total amount of non-excluded resources held in the name of:
 - (i) Either spouse; or
 - (ii) Both spouses.
 - (b) Before that date, the department adds together one-half the total amount of non-excluded resources held in the name of:
 - (i) The institutionalized spouse; or
 - (ii) Both spouses.
- (6) If subsection (5) (a) applies, the department allocates the maximum amount of resources ordinarily allowed by law to the community spouse before determining non-excluded resources used to establish eligibility for the institutionalized spouse. The maximum allocation amount is eighty-four thousand, one hundred and twenty dollars effective January 1, 2000.
- (7) The amount of allocated resources described in subsection (6) can be increased, only if:
 - (a) A court transfers additional resources to the community spouse; or
 - (b) An administrative law judge establishes in a fair hearing described in chapter 388-08 WAC that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.
- (8) The department considers resources of the community spouse unavailable to the

institutionalized spouse the month after eligibility for LTC services is established, unless subsections (9) (a), (b), or (c) apply.

- (9) A redetermination of the couples' resources as described in subsections (4) (b) or (c) is required, if:
- (a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;
 - (b) The institutionalized spouse's non-excluded resources exceed the standard described in subsection (1) (a), if subsection (5) (a) applies; or
 - (c) The institutionalized spouse does not transfer the amount described in subsection (6) or (7) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365 (7) and (8) by either:
 - (A) The first regularly scheduled eligibility review; or
 - (B) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

CLARIFYING INFORMATION

For resource rules and related information that define ownership and availability, refer to the **RESOURCES** section for WAC 388-470-0005, WAC 388-470-0010, and WAC 388-470-0015.

Resources of a married couple - one spouse institutionalized

The rules regarding resources for married couples are different depending on when the institutionalized spouse began the current period of institutional status. If the current period of institutional status began before October 1, 1989, the determination of eligibility does not include any resources of the community spouse that are owned and maintained separately from community resources. Once eligibility has been established, this rule remains in effect unless a break of at least thirty consecutive days occurs.

If the current period of institutional status began on or after October 1, 1989, the spousal impoverishment rules apply. When these rules apply, the determination of eligibility includes all non-excluded resources of either or both spouses. The department then

allocates the amount set aside for the community spouse as described in WAC 388-513-1350 (6) before determining eligibility for the institutionalized spouse. That amount can be increased only as described in WAC 388-513-1350 (7):

- Pursuant to a court order for spousal support; or
- When an administrative law judge (ALJ) approves a determination by Home and Community Services (HCS) that the excess resources are needed to produce income to provide the community spouse the minimum maintenance allocation.

Once eligibility has been established, this resource determination remains in effect unless a break of at least thirty consecutive days occurs, or if the institutionalized spouse acquires resources above the program standard.

Resources of a married couple – both institutionalized

The spousal impoverishment rules do not apply, if both spouses are institutionalized. If both spouses apply for LTC services during the same month, the department considers all non-excluded resources available to both spouses when establishing eligibility. If one spouse applies for LTC services in a month after eligibility for the other spouse has been established, or if both were denied in the previous month because of excess resources, the department considers one-half of community resources and separate resources respectively when determining the eligibility of each spouse.

Annuities and Life Estates

See **TRUSTS, ANNUITIES AND LIFE ESTATES** for information on how annuities and life estates affect medical / LTC eligibility.

Patient trust account

A client can establish a patient trust account in a medical facility, if the client is not capable of handling personal funds or has requested in writing that one be established. The Nursing Facility is required to:

- Maintain an interest bearing account for balances above \$49.99;
- Keep a ledger of the trust account balance of each client; and
- Notify the HCS/CSO FSS when the trust account is close to the resource standard

If the client leaves a medical facility, the facility returns these funds to the client. If the client dies, the facility sends these funds to the Office of Financial Recovery for estate

recovery. If the client leaves and his/her whereabouts are unknown, the facility sends these funds to the Department of Revenue.

Excess Resources

A client may reduce excess resources in either the month of application or an eligibility review, if they are used to determine participation in the cost of care or a spenddown liability for non-institutional medical assistance. The client's non-excluded resources cannot exceed the program standard in other months, in order for the client to remain eligible for LTC services.

A client may also reduce excess resources by paying medical bills or using funds to establish a burial fund, if appropriate. Care must be taken to ensure that excess resources are spent during the month of application. If a client remains resource ineligible during the month of application, the department cannot pay for services received that month, even if the client becomes eligible in the next month.

WORKER RESPONSIBILITIES

When the current period of institutional status began before October 1, 1989:

1. Consider resources in both spouses' names as community resources (jointly owned).
2. Do not count separate resources of each spouse as a community resource. In order to be considered separate, these resources must belong to one spouse and be maintained separately from community resources.
3. Count one-half of the community resources and one-half of the resources owned by the institutionalized spouse toward the Medicaid resource standard for one person of \$2,000 to determine resource eligibility.
4. Follow necessary supplemental accommodation (NSA) procedures described in chapter 388-200 WAC when appropriate.

When the current period of institutional status began on or after October 1, 1989:

1. Determine the value of the community resources as of the first day of the month. Include all non-excluded resources of both spouses. Do not consider whether or not the resources are separate or jointly owned.

2. Allocate non-excluded community resources to the community spouse up to the maximum amount, or a higher amount ordered by the court or ALJ.
3. Count the remaining resources toward the Medicaid resource standard for one person.
 - If below the standard, the institutionalized spouse is resource eligible
 - If above the standard, consider whether the excess amount can be used to satisfy any spenddown liability for the cost of care in the initial month
4. If you deny the application for excess resources and the client disputes the value assigned to the resources, send the client a letter to gain verification of the value of the couples' resources. Allow ten days, and send a confirmation of denial, if the client does not respond or provide the information requested. If the information is provided and the client is ineligible, send a confirmation of denial that itemizes resources and their values.
5. If the institutionalized spouse is eligible after allocating resources to the community spouse, inform the client that the names must be changed to that of the community spouse on documents of ownership for the allocated resources by the end of one year. Start this protected period on the date you open LTC services and end this period on the last day of the month in which the first eligibility review is due.
6. When completing the first eligibility review, determine if the resources have been transferred to the community spouse.
 - If the transfer has been completed, the institutionalized spouse remains eligible.
 - If the transfer has not been completed, determine if legal proceedings to transfer the resources have begun. If not, terminate the case after giving the client advance and adequate notice. Do not allow an additional protected period if the client reapplies.
 - If legal proceedings are under way, tickle the case to review the status of the resources based on the expected date of transfer.
7. Do not reassess community resources unless the institutionalized spouse has a break of at least thirty consecutive days in the current period of institutional status or acquires resources above the program standard.
8. When both spouses are institutionalized during the same month, count all non-excluded resources during the first month of separation. Consider all resources as available to both and compare total resources to the couple institutional standard. If

resources are above this standard, both are ineligible for that month. For the month following the month of separation, refer to number 9.

9. When eligibility has already been established for one spouse, and the other spouse becomes institutionalized in a following month, consider one-half of all community resources jointly held as available to both spouses. Add to that amount the separate resources of each spouse when determining eligibility for each of them. Establish eligibility for each spouse as you do for a single client. If resources of a spouse are above the standard for one person, that spouse is ineligible.
10. Use the Individual Annuity (Life Expectancy) Tables in Appendix 5 of this category to determine whether annuity payments will exceed a time frame based on the actuarial life expectancy of the client. If they do, establish a period of ineligibility as described in WAC 388-513-1365 or WAC 388-513-1366.
11. Determine whether a life estate can be excluded as a resource. If not, determine its value as a non-excluded resource by using Appendix 2 of this category – Determining the Value of Life Estates. If the life estate is jointly owned, divide the value by the number of joint owners to determine the client's share.
12. Follow necessary supplemental accommodation (NSA) procedures described in chapter 388-200 WAC when appropriate.

ACES PROCEDURES

1. Refer to Chapter K 20.16.4 in the ACES User Manual. While following these procedures, the information below is important to remember.
2. Enter resource amounts on the RES1, RES2, and RES3 screens. For a married client, enter resources of the other spouse on the LTCD screen. ACES supports policy that states married clients must transfer all but \$2,000 of non-excluded resources to the non-applying spouse by the time the first eligibility review is completed.
3. Enter excess resources that are reduced in the spenddown process during either the initial or review month as Other Countable Income (medical) on the UNER screen. This causes ACES to assign the excess amount as participation. Document this action in F9 remarks and remove the excess amount from the UNER screen for the following months.